

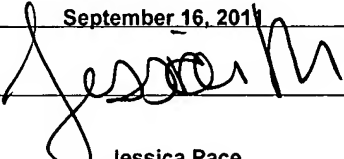

Doc Code: AP.PRE.REQ



PTO/SB/33 (07-09)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 800.0124.U1(US)	
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on <u>September 16, 2011</u></p> <p>Signature <u></u></p> <p>Typed or printed name <u>Jessica Pace</u></p>		Application Number 10/587,979	Filed 10/10/2006
		First Named Inventor Stirbu et al	
		Art Unit 2476	Examiner Sori A. Aga
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>41,180</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> <p> _____ Signature Robert Mauri _____ Typed or printed name (203) 925-9400 _____ Telephone number September 16, 2011 _____ Date</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			

☐ *Total of _____ forms are submitted.

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IN THE U.S. PATENT AND TRADEMARK OFFICE

In re U.S. Patent Application of:

APPLICANT: Vlad Stirbu et al.

SERIAL NO.: 10/587,979

FILING DATE: 10 October 2006

EXAMINER: Sori A. Aga

ART UNIT: 2476

ATTORNEY'S DOCKET NO.: 800.0124.U1(US)

TITLE: Method And System For Optimization Of Data Transfer Between Networked Devices

Mail Stop AF
Commissioner for Patents
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Alexandria, VA 22313-1450

**ARGUMENTS FOR A PRE-APPEAL BRIEF CONFERENCE REQUEST FOR
REVIEW**

Sir:

This paper includes the arguments accompanying a Pre-Appeal Brief Conference Request for Review and Notice of Appeal. The following is a concise recitation of **clear error** in the Examiner's rejections in this application. All remaining claims stand rejected under 103(a) being unpatentable over Rune (U.S. Patent Publication no. 2004/0167988) in view of Jou, 2005/0036489 (and perhaps with additional references). Applicant respectfully disagrees. Because all rejections are based on Jou and Rune, and Applicant shows below that the rejections based on the combination of Jou and Rune are invalid, all §103(a) rejections must be withdrawn.

In the outstanding final Office Action, page 3, the Examiner admits that Rune does not disclose at least the subject matter of "comparing the destination address of the packet with at least one predetermined multicast and/or broadcast address" in the independent claims. The Examiner then points to Jou for alleged disclosure of this subject matter. However, Jou does not disclose this subject matter for at least the following reasons.

It is noted that in the Response dated 4 August 2011, Applicant made an argument that the cited sections of Jou's published application were not prior art under 35 U.S.C. §102 against the instant application. For brevity's sake, this argument is omitted here, but Applicant reserves the right to reiterate this argument at a later date.

Regardless, even if the cited sections of Jou's published application are prior art against the instant independent claims, Applicant respectfully submits that Jou's published application does not disclose the subject matter the Examiner asserts is disclosed by Jou's published application. For instance, the Examiner cites to paragraph 29 of Jou's published application: "The wireless transport device will determine whether or not the DA filed (sic – should be "field") is the same as the local MAC address of this device (510). If positive, the wireless transport device drops the frame because it is an echoed frame (step 530)." This section of Jou's published application indicates that a determination is made of whether or not the DA (destination address) field in a frame is the same as the local MAC (media access control) address of the device. It is known in the art that a MAC address is a unique identifier assigned to network interfaces for communications on the physical network segment. What the sentence "If positive, the wireless transport device drops the frame because it is an echoed frame (step 530)" appears to mean is that the current device previously transmitted the frame, and the frame is being echoed back to the device. Thus, the device put the MAC address of itself into the frame, and transmitted the frame. When the device receives a frame that has its MAC address, the device then determines the frame is an echoed frame and can be ignored. See also paragraph 22 of Jou's published application: "Therefore, to filter out echo frames, broadcast frames have to carry the address information of (sic) previous hop in the transmitted frame."

Moreover, the MAC address of the device is not a "broadcast address", as the MAC address is an address of the device itself: "The wireless transport device will determine whether or not the DA filed (sic) is the same as the local MAC address of this device (510)." Paragraph 29 of Jou's published application. Another device receiving the frame with the MAC address of the previous hop is not going to determine the MAC address is a

broadcast address or use the MAC address as a broadcast address. This means that the MAC address of a device will not be the same as the broadcast address. The same is true for a multicast address: a multicast address will not be the same as a MAC address. This is true because, by definition, the multicast address is to be used for communication with multiple addresses/devices, while a MAC address is made to be specific to a single device.

To put this a different way, any device receiving a packet with a destination address that is the same as a MAC address of one of the devices on a network should forward the packet toward the device having that MAC address. However, there is only one device in the network with that MAC address. Therefore, the MAC address is not a broadcast address (a packet addressed with a broadcast address is destined for every device in the network) or is not a multicast address (a packet addressed with a multicast address is destined for at least two devices in the network).

In the Advisory Action dated 12 September 2011, the Examiner states the following:

'multicast/broadcast and destination address). The recitations broadcast/multicast address and multicast address are not defined by the claim; the specification does not provide a clear explanation of said terms. In the absence of an express intent to impart a novel meaning to the claim terms, the words are presumed to take on the ordinary and customary meanings attributed to them by those of ordinary skill in the art [MPEP 2111.01]. In this case Jou's destination address (although MAC address of the previous hop) is considered a multicast address since it is a multicast destination address (as shown above and discussed in paragraph 0022-Jou). Applicant's arguments do not show how the claims prevent a reasonable broadest interpretation of said terms would prevent such interpretation as supported by the Jou reference.

One skilled in the art knows what the terms "MAC address", "multicast address", and "broadcast address" are. See, e.g., http://en.wikipedia.org/wiki/MAC_address ("MAC address"), http://en.wikipedia.org/wiki/Multicast_address ("multicast address"), and http://en.wikipedia.org/wiki/Broadcast_address ("broadcast address"). In fact, it is known that a broadcast address in MAC (e.g., 802.11) is all ones, e.g., FFFFFFFF for 32 bits in hexadecimal. See paragraph 27 of Jou ("a broadcast frame in WITnet is a WDS frame with Receiver Address Field (please refer to FIG. 3) being, for instant (sic), 0xffffffff"), or http://en.wikipedia.org/wiki/MAC_address ("Packets sent to the broadcast address, all one bits, are received by all stations on a local area network. In hexadecimal the broadcast address

would be FF:FF:FF:FF:FF:FF"). Jou is using the broadcast address of 0xffffffff consistently with what is known in the art for one particular network and protocol.

However, Applicant respectfully submits that it is the Examiner who is interpreting the terms "multicast address" and "broadcast address" in a way that is not in accord with the way these terms would be interpreted by one skilled in the art. That is, one skilled in the art would not interpret MAC, broadcast, and multicast addresses in the way the Examiner is interpreting these terms in order to get Jou to read on the instant independent claims.

Thus, for at least the above reasons, Jou's published application does not disclose at least the subject matter of "comparing the destination address of the packet with at least one predetermined multicast and/or broadcast address", as recited in claim 16 and generally in the other independent claims.

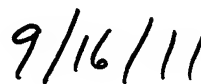
Because the Examiner admits that Rune does not disclose the subject matter in the claims of "comparing the destination address of the packet with at least one predetermined multicast and/or broadcast address", and because Jou's published application does not disclose this certain subject matter, the combination of Rune and Jou does not disclose this subject matter. Applicant respectfully submits the 103(a) rejections against the independent claims must fail.

For at least these reasons, the rejections of the independent claims should be withdrawn.

Respectfully submitted:



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Date